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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/823,095	03/29/2001	Juan G. Revilla	10559-395001 / P10620-ADI	8397

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EXAMINER	
DANG, KHANH	

ART UNIT	PAPER NUMBER
2111	

DATE MAILED: 10/04/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/823,095	REVILLA ET AL.	
	Examiner	Art Unit	
	Khanh Dang	2111	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *19 August 2004*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-8 and 17-20* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-8 and 17-20* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 2, 4-8, 17, 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Garibay, Jr. et al.

At the outset, it is noted that similar claims will be grouped together to avoid repetition in explanation.

As broadly drafted, these claims do not define any structure/step that differs from Garibay, Jr. et al. It is first noted that the phrase, "adapted to" perform a function is not a positive limitation but only requires the ability to so perform. It does not constitute a limitation in any patentable sense. *In re Hutchison, 69 USPQ 138.* In any event, With regard to claims 1, 2, 4-8, 17, and 18, Garibay, Jr. et al. discloses a processor coupled to the memory device (cache 14), wherein the processor includes an execution unit (12)

and a control unit, the control unit including a prefetch unit (22/24) and exception handling logic (shown generally at 30), the control unit adapted to: fetch at least one data block; generate exception status information about the data block; store the exception status information and the data block in the prefetch unit (22/24); detect at least part of an instruction within the data block; in parallel, issue the instruction to the execution unit (12) and issue at least part of the exception status information to the exception handling logic. Also, in Garibay Jr. et al., the data/address buffers are readable as a so-called "instruction alignment unit." In addition, the decoder 26 is readable as "decoder." It is clear from Garibay, Jr. et al. that there must be a memory to store the prefetch buffers.It is also clear from Garibay, Jr. et al., that the control unit is able to fetch another data block; generate additional exception status information about the another data block; and store the additional exception status information and the another data block in the prefetch unit (22/24). Note that any newly presented limitation added to the claim(s) in this RCE application will be discussed under Response to Applicant's Argument.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains.

Patentability shall not be negatived by the manner in which the invention was made.

Claims 3 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Garibay, Jr. et al.

Garibay, Jr. et al., as explained above, discloses the claimed invention including the use of a exception handling processor/logic (30). Garibay, Jr. et al. does not disclose the use of an OR gate in the handling processor/logic. It would have been obvious to one of ordinary skill in the art at the time the invention was made to use an OR gate particularly in the handling processor/logic (30) of Garibay, Jr. et al., since the Examiner takes Official Notice that the use of an OR gate in a programmable handling processor/logic is old and well-known; and the only involves routine skill in the art. If the Applicants choose to challenge the fact that OR gate is used in programmable logic, supportive document(s) will be provided upon request.

Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Garibay, Jr. et al.

Garibay, Jr. et al., as explained above, discloses the claimed invention including the use of a buffer in a prefetch unit (22/24). However, Garibay, Jr. et al. does not particularly disclose the use of at least two buffers. It would have been obvious to one of ordinary skill in the art at the time the invention was made to use at least two buffers, since it has been held that duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. vs. Bemis Co., 193 USPQ 8.* In any event, it would have been obvious to one of ordinary skill in the art at the time the

invention was made to use at least two buffers in Garibay, Jr. et al., since the Examiner takes Official Notice that the use a plurality of buffers or a single large buffer in order to speed-up/improve transaction speed is old and well-known; and the only involves routine skill in the art. If the Applicants choose to challenge the fact that the use a plurality of buffers or a single large buffer in order to speed up/improve transaction speed is old and well-known, supportive document(s) will be provided upon request.

Response to Arguments

Applicant's arguments filed 8/19/2004 have been fully considered but they are not persuasive.

At the outset, Applicants are reminded that claims subject to examination will be given their broadest reasonable interpretation consistent with the specification. *In re Morris, 127 F.3d 1048, 1054-55 (Fed. Cir. 1997).* In fact, the "examiner has the duty of police claim language by giving it the broadest reasonable interpretation." *Springs Window Fashions LP v. Novo Industries, L.P.,* 65 USPQ2d 1862, 1830, (Fed. Cir. 2003). Applicants are also reminded that claimed subject matter not the specification, is the measure of the invention. Disclosure contained in the specification cannot be read into the claims for the purpose of avoiding the prior art. *In re Sporck*, 55 CCPA 743, 386 F.2d, 155 USPQ 687 (1986).

With this in mind, the discussion will focus on how the terms and relationships thereof in the claims are met by the references. Response to any limitations that are not

in the claims or any arguments that are irrelevant and/or do not relate to any specific claim language will not be warranted.

The 102 Garibay Rejection:

With regard to claims 1 and 17, Applicants argued that Garibay, Jr. et al. does not disclose "aligning the instructions based on the exception information." Contrary to Applicant's argument, Garibay discloses a plurality of different exception conditions (see at least the abstract and claim 1). Digitally speaking, it is clearly inherent that a plurality of exception conditions can only be represented by a set of bits. Different combinations of state (polarity) of bits represent different exception conditions. It is also clear that in Garibay, the data/address buffers align the instructions based on the exception condition before the instruction can be issued.

The 103 Garibay Rejection:

No separate argument is provided regarding the 103 Rejection.

Any inquiry concerning this communication should be directed to Khanh Dang at telephone number 703-308-0211.

Khanh Dang
Primary Examiner